



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401



IN REPLY REFER TO:
DESCRM
MC-208

MAY 02 2012

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: ^{ACTING} Regional Director, Great Plains Region

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, an Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The Addendum authorizes land use for the expansion of the Clara #14-17H well pad to accommodate one additional oil and gas well on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the (40 C.F.R. Section 1506.6(b)). Please post the attached notice of availability at the Agency and Tribal buildings for 30 days.

If you have any questions, please call Marilyn Bercier, Regional Environmental Scientist, Division of Environment, Safety and Cultural Resources Management, at (605) 226-7656.

Attachment

cc: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)
Elgin Crows Breast, Tribal Historic Preservation Officer (with attachment)
Derek Enderud, BLM, Bureau of Land Management (with attachment)
Michael Madson, SWCA (with attachment)
Eric Wortman, EPA, (with attachment)
Jonathon Shelman, Corps of Engineers
Jeff Hunt, Fort Berthold Agency

Finding of No Significant Impact WPX Energy Williston, LLC

Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well

Fort Berthold Indian Reservation Dunn County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposed Addendum to authorize land use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well on the Fort Berthold Indian Reservation. The well pad is located approximately 4 miles southeast of Mandaree, North Dakota, in the SE¼ SW¼ of Section 17, Township (T) 149 North (N), Range (R) 93 West (W), Dunn County, North Dakota. Associated federal actions by BIA include determinations of effect regarding cultural resources, approvals of leases, rights-of-way and easements, and a positive recommendation to the Bureau of Land Management regarding the Applications for Permit to Drill.

The potential of the proposed actions to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined that the proposed projects will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities.

This determination is based on the following factors:

1. Agency and public involvement was solicited and environmental issues related to the proposal were identified.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, public safety, water resources, and cultural resources. The remaining potential for impacts was disclosed for both the proposed action and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service has been fully considered regarding wildlife impacts, particularly in regard to threatened or endangered species. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (MBTA), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) (NEPA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) (BGEPA), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.) (ESA).
4. The proposed actions are designed to avoid adverse effects to historic, archaeological, cultural and traditional properties, sites and practices. Compliance with the procedures of the National Historic Preservation Act is complete.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed projects will improve the socio-economic condition of the affected Indian community.

ACTING


Regional Director


Date

ENVIRONMENTAL ASSESSMENT Addendum

United States Bureau of Indian Affairs

**Great Plains Regional Office
Aberdeen, South Dakota**



WPX Energy Williston, LLC

**Addendum to Environmental Assessment to Authorize Land Use for the Expansion of
the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well**

Fort Berthold Indian Reservation

April 2012

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Environment, Safety and Cultural Resources Management
115 4th Avenue SE, Aberdeen, South Dakota 57401
(605) 226-7656

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A Plats, Drawings, and Diagrams for the Proposed Clara #14-17HB Well Location

1. Purpose and Need for the Proposed Action

The purpose of the proposed action is to authorize land use by WPX Energy Williston, LLC (WPX) for the construction and installation associated with the expansion of the previously authorized Clara #14-17H well pad (well pad) to accommodate the addition of one oil and gas well, i.e., Clara #14-17HB (well). Developments have been proposed on land held in trust by the United States within the Fort Berthold Indian Reservation, Dunn County, North Dakota.

The Bureau of Indian Affairs (BIA) is the surface management agency for potentially affected tribal lands and individual allotments and holds title to subsurface mineral rights. The economic development of available resources and associated BIA actions are consistent with BIA's general mission. Leasing and development of mineral resources offers substantial economic benefits to the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation and to individual tribal members.

2. Authorities

Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.).

3. Legal Land Description for Proposed Action

The well pad is located approximately 4 miles southeast of Mandaree, North Dakota, in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, Township (T) 149 North (N), Range (R) 93 West (W), Dunn County, North Dakota (Figure 1).

The proposed bottom hole for the well is approximately 4,392 feet north and 223 feet west of the surface location in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T149N, R93W, Dunn County (Figure 1).

4. Scope of Work for Proposed Action

WPX proposes to increase the size of the approved well pad to accommodate the ancillary equipment and storage tanks necessary for the operation of an additional oil and gas well as the new well will not require additional surface disturbance. Figure 1 and Appendix A provide a detailed project area map and plat schematics for the proposed well pad expansion, respectively. The expansion of the approved well pad to accommodate the proposed well would disturb approximately 0.85 acre. The proposed well would use a 640-acre spacing unit. The technical drilling specifications would be similar to those of the approved Clara #14-17H well which is covered in a previous Environmental Assessment (see Section 8: Applicable NEPA Documents).

5. Resource Surveys

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for wetlands, threatened and endangered species and habitat, migratory birds and active nests, and bald and golden eagles and their nests at the well pad location and surrounding area on August 15, 2011. Those in attendance during the August 16, 2011 on-site meeting agreed the proposed location would limit potential impacts to sensitive resources. No primary or secondary indications of protected species occurrences were observed during the field surveys.

A cultural resource inventory of this well pad expansion project was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 45.6 acres were inventoried between August 12 and 15, 2011 (Lantz and Herson 2012). No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.6) for inclusion on the National Register. As the lead federal agency, and as provided for in 36 CFR 800.5, on the basis of the information provided, BIA reached a determination of no historic properties affected for this undertaking. This determination was communicated to the THPO on April 2, 2012; however the THPO did not respond within the allotted 30 day comment period.

Lantz, Andrew, and Chandler S. Herson

(2012) A Class I and Class III Cultural Resource Inventory of the Clara #14-17H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

6. Potential Effects to Cultural and Natural Resources

Potential direct impacts to cultural resources would occur as a result of disturbance and/or the loss of sites eligible for the NHPA. All potential impacts as a result of the proposed action were mitigated via field survey and subsequent avoidance of any eligible cultural resource sites within the proposed ROW.

Potential direct impacts to natural resources may include the loss of native vegetation and wildlife habitat, soil disturbance, and erosion during construction that may adversely affect air and water quality. Impacts would be mitigated by using best management practices, such as using secondary containment on areas where there are steep inclines and drainages, and using matting and straw waddles on those steep areas during construction, to minimize erosion. Straw waddles would be placed, and matting would be installed to prevent erosion into this drainage. In addition to the berm added as standard BMP, fill would be placed at the tops of drainages to act as a secondary containment to prevent any event from moving off site.

In total, additional construction disturbance would affect approximately 0.85 acre. Potential indirect effects of the proposal could include release of sediment or fluids from the well pad, construction noise or traffic disturbance of general wildlife, and possible introduction of noxious weeds. Potential cumulative impacts of the proposal plus other foreseeable future oil and gas development on the Fort Berthold Indian Reservation could include habitat

fragmentation from construction of other well pads and roads. The cumulative effect of the changed action is anticipated to be negligible. Any potential direct effects would be mitigated by surveying for and avoiding any eligible cultural resource sites; implementing an approved stormwater pollution prevention plan and erosion control devices; avoiding any wetlands and any federally listed threatened or endangered species or designated critical habitat; avoiding nesting migratory birds; and completing reclamation using appropriate native vegetation.

Any potential indirect effects would be mitigated by; stockpiling and re-using topsoil for reclamation; implementing best management practices for controlling introduction of noxious weeds; and minimizing the length of time between drilling and reclamation.

Based on the resource surveys, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA documents, no significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum.

7. Reclamation

Interim Reclamation

Reclamation would continue over the life of the well pad and would include the return of topsoil, and contouring and seeding of native vegetation. Initial reclamation would be required 6 months after construction, if environmentally feasible, and then following any maintenance work or additions of infrastructure. Reclamation would be required before final abandonment of the decommissioned well pad. A successful reclamation would at all times be the responsibility of the operator.

Applicable short- and long-term best management practices would be used to minimize and control erosion in disturbed areas. To reduce compaction, the well pad expansion area would be plowed before the stockpiled topsoil is distributed.

The disturbed areas would be reclaimed and contoured as soon as possible after construction is complete (fall/spring). The disturbed area outside of the working well pad would be covered with stockpiled topsoil and reseeded with a seed mixture determined by the BIA. WPX would control noxious weeds within the ROW and other applicable facilities by approved chemical or mechanical methods. If seeding of the ROW does not occur due to growing season constraints, WPX will deploy approved weed-free hay across the entire ROW. The presence of hay across the ROW will reduce the potential for excessive erosion as a result of spring snow melt and precipitation.

The entire ROW would be monitored for erosion, subsidence, and noxious weeds. In areas where problems are found to occur, reclamation efforts would continue until the BIA feels the ROW is successfully reclaimed. Reclamation is considered successful when:

- seeded areas are established;
- adjacent vegetative communities spread back into the disturbed areas; and

- noxious weeds are under control.

If after two growing seasons the new seeding is not successful, the BIA may require additional efforts to establish vegetation. For noxious weeds, a survey was conducted on the access road ROW and well pad area, prior to the construction commencing. The BIA has developed a weed management plan to treat known or likely to occur noxious weed species.

Final Reclamation

Final reclamation would occur when the well pad is decommissioned. All disturbed areas would be reclaimed, reflecting the BIA's view of oil and gas exploration and production as temporary intrusions on the landscape. All facilities would be removed. Access roads and work areas would be leveled or backfilled as necessary, scarified, recontoured, and seeded.

8. Applicable National Environmental Policy Act (NEPA) Document(s)

Environmental Assessment and Finding of No Significant Impact: Zenergy Operating Company, LLC, Four Bakken Exploratory Oil Wells: Dakota-3 Mandan #3-13H, Dakota-3 Brugh #15-32H, Dakota-3 TAT (694A) #3-11H, Dakota-3 Clara #14-17H (September 2009)

9. NEPA Adequacy Criteria

This document has identified the above-mentioned previously prepared NEPA document, which adequately describes the environmental consequences of the newly proposed action described herein, and meets the following NEPA Adequacy Criteria.

1. The proposed action is substantially the same action and at the site specifically analyzed in the existing NEPA document.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA document, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA document. The analysis is still valid in light of new studies or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA document continues to be appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are unchanged from those identified in the existing NEPA document.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA document.
7. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA document.

*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well
(April 2012)*

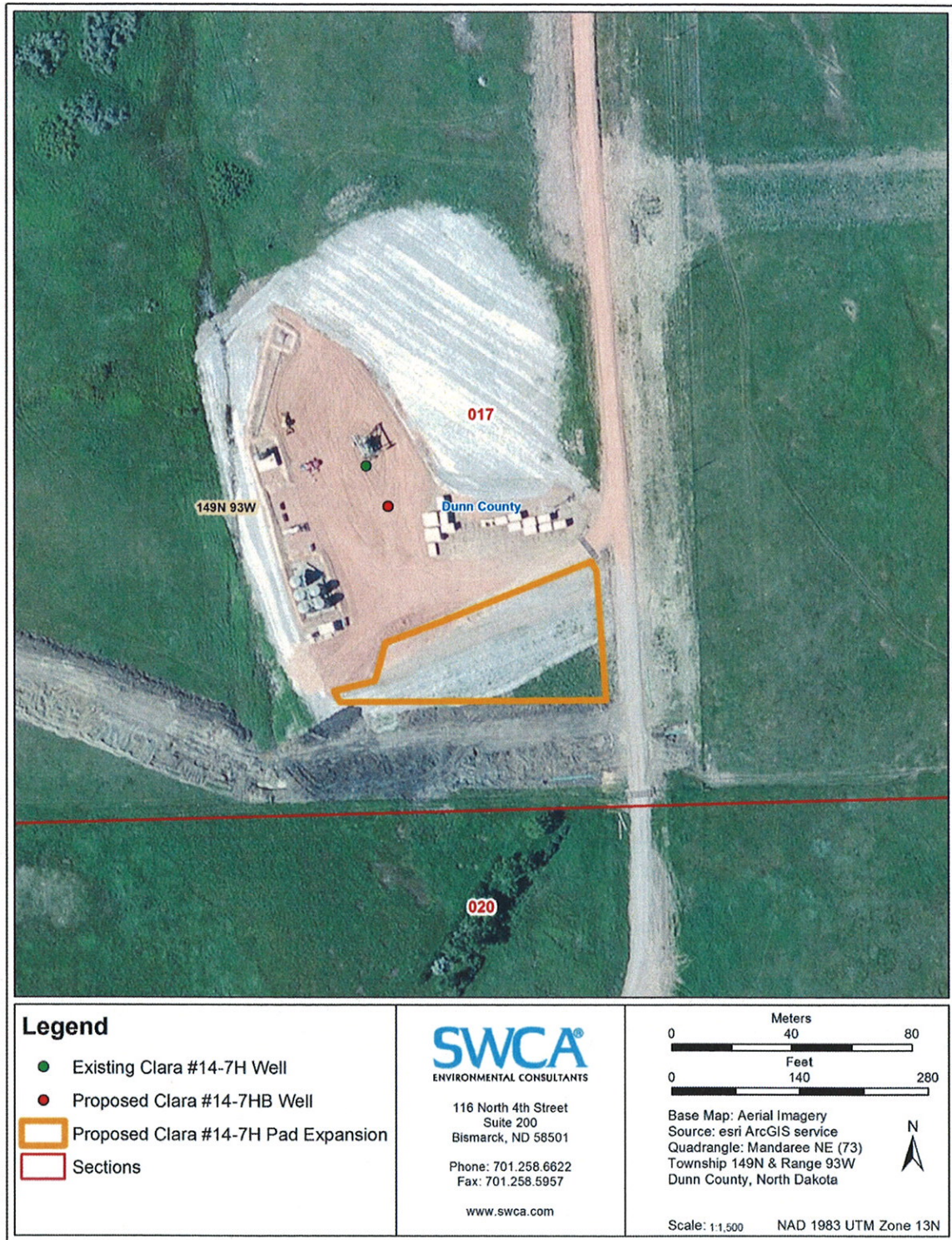


Figure 1. Map of the Approved Clara #14-17H Well Pad Location and Proposed Expansion Area.

*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well
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Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401



APR 02 2012

Elgin Crows Breast, THPO
Mandan, Hidatsa and Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Mr. Crows Breast:

We have considered the potential effects on cultural resources of seven oil well pad expansion projects in Dunn and McKenzie Counties, North Dakota. Approximately 251.32 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. One archaeological site (32DU1497) was revisited and another (32DU1702) was located that may possess the quality of integrity and meet at least one of the criteria (36 CFR 60.4) for inclusion on the National Register of Historic Places. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (42 USC 1996).

As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no historic properties affected** for these undertakings, as the archaeological sites will be avoided. Catalogued as **BIA Case Number AAO-2079/FB/12**, the proposed undertakings, locations, and project dimensions are described in the following reports:

Herson, Chandler S.

(2012a) A Class I and Class III Cultural Resource Inventory of the Beaks #36-35H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

(2012b) A Class I and Class III Cultural Resource Inventory of the Black Hawk #15-34H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Lantz, Andrew, and Chandler S. Herson

(2012) A Class I and Class III Cultural Resource Inventory of the Clara #14-17H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Leroy, Adam

(2012) A Class I and Class III Cultural Resource Inventory of the TAT #15-1H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Riordan, Carolyn, Chandler S. Herson and Damien Reinhart

(2012) A Class I and Class III Cultural Resource Inventory of the Ethan Hall #2-14H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well
(April 2012)

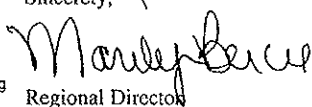
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Yost, Scott
(2012) A Class I and Class III Cultural Resource Inventory of the Patricia Charging #4-15H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Yost, Scott, and Chandler S. Herson
(2012) A Class I and Class III Cultural Resource Inventory of the Gerald Hale #33-28H Well Pad Expansion, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. We will adhere to the Standard Conditions of Compliance.

If you have any questions, please contact Dr. Carson N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely, 

Acting Regional Director

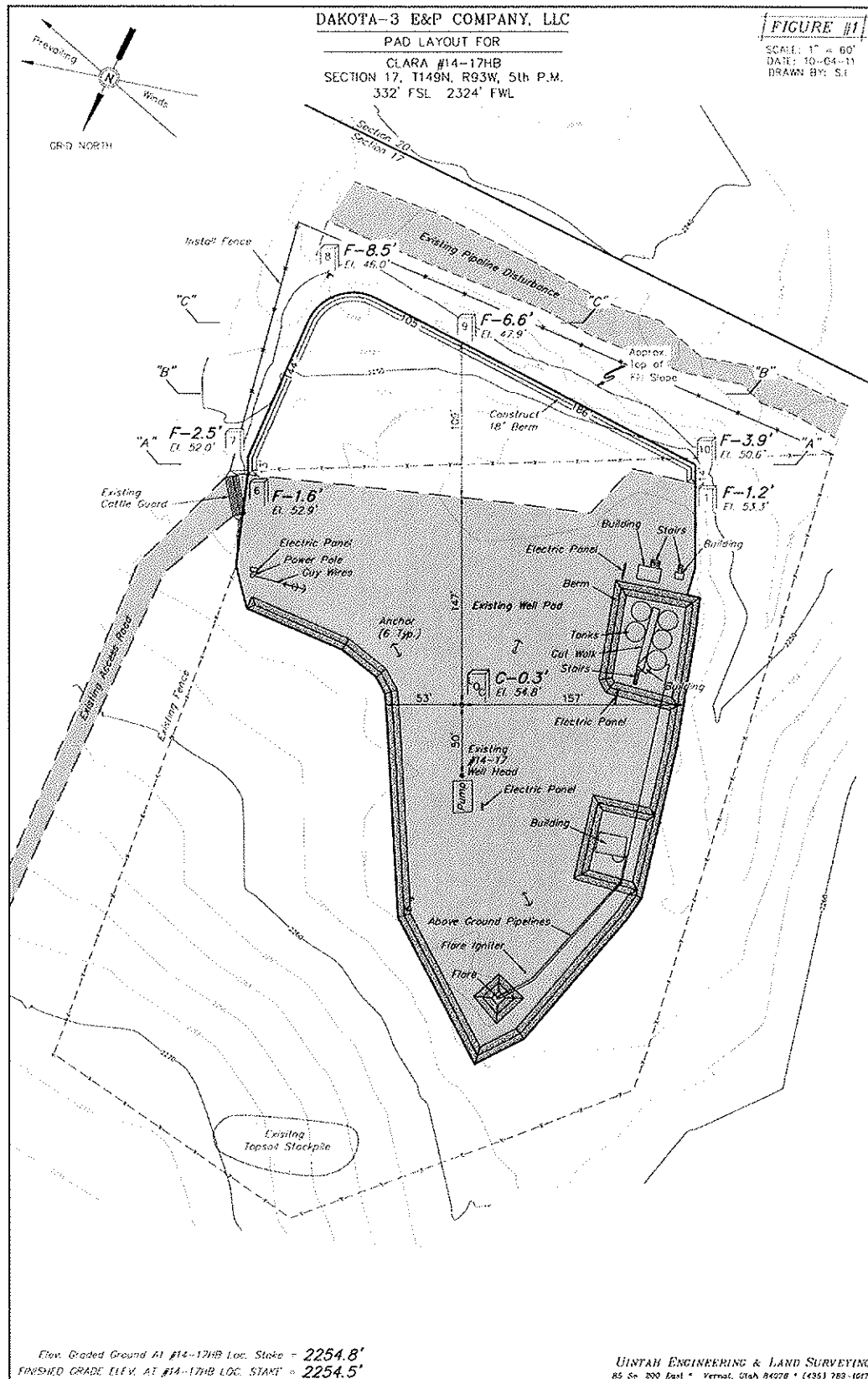
Enclosures

cc: Chairman, Three Affiliated Tribes
Superintendent, Fort Berthold Agency

APPENDIX A

Plats, Drawings, and Diagrams for the proposed Clara #14-17HB well location

Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well
(April 2012)



Notice of Availability and Appeal Rights

WPX Energy: Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals to Authorize Land Use for the Expansion of the Clara #14-17H Well Pad to Accommodate One Additional Oil and Gas Well on the Fort Berthold Reservation as shown on the attached map. Construction by WPX Energy is expected to begin in 2012.

An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).

The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA's decision to proceed with administrative actions *can* be appealed until May 31, 2012, by contacting:

**United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 N. Quincy Street, Suite 300, Arlington, Va 22203.**

Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.

Project locations.

